

THE STATE OF ARIZONA
CITIZENS CLEAN ELECTIONS COMMISSION

REPORTER'S TRANSCRIPT OF PUBLIC MEETING

Phoenix, Arizona

March 30, 2006

9:30 a.m.

(Original)

Reported By:

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Draft Copy

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1 A PUBLIC MEETING, BEFORE THE CITIZENS CLEAN
 2 ELECTIONS COMMISSION, convened at 9:30 a.m. on March 30,
 3 2006, at the State of Arizona, Clean Elections
 4 Commission, 1616 W. Adams, Conference Room, Phoenix,
 5 Arizona, in the presence of the following Board members:
 6 Ms. Marcia Busching, Chairperson
 7 Mr. Gary Scaramazzo
 8 Ms. Ermila Jolley
 9 Mr. Carl Kunasek
 10
 11 OTHERS PRESENT:
 12 Mr. Todd Lang, Executive Director
 13 Ms. Paula Ortiz, Executive Assistant
 14 Ms. Colleen McGee, Fiscal Service Manager
 15 Mr. Michael Becker, Voter Education Manager
 16 Ms. Christina Murphy, Administrative Assistant
 17 III
 18 Ms. Cindy Stutesman, Administrative Assistant
 19 II
 20 Ms. Diana Varela, Assistant Attorney General
 21 Ms. Barbara Lubin, Clean Elections Institute
 22 Mr. Richard Mays, Citizen
 23 Ms. Lauren Lowe, Perkins Coie Brown & Bain
 24 Ms. Jan Brewer, Secretary of State
 25 Ms. Nancy Read, Secretary of State's Office
 Mr. Arthur R. Rosen, Aircraft Owners and Pilots
 Association
 Ms. Jan Smith Florez, Candidate for Governor
 Ms. Kim Demarchi, Lewis & Roca
 Mr. Mike Brewer, Citizen
 Ms. Elizabeth Tuttle, Citizen
 Ms. Jenna Broadbent, OMA

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1 Commissioner Scaramazzo and seconded by Commissioner
 2 Kunasek that we approve the minutes of March 15, 2006 as
 3 prepared.
 4 All in favor say "aye."
 5 (Chorus of ayes.)
 6 CHAIRPERSON BUSCHING: Opposed, nay?
 7 Chair votes aye. Motion carries.
 8 Next item is the Executive Director's report.
 9 Mr. Lang?
 10 MR. LANG: Thank you, Madame Chair. Good
 11 morning, Commissioners.
 12 COMMISSIONER SCARAMAZZO: Good morning.
 13 MR. LANG: You have your -- you have my report
 14 in front of you. There's a couple issues I wanted to
 15 advise you on that I didn't think were ready for the
 16 agenda yet. One is the issue of the value of voter
 17 lists. That was raised by a participating candidate.
 18 It's an interesting question and I'll -- I'm looking
 19 into it and it should be on the agenda for the next
 20 meeting.
 21 As you know, we said good-bye to Geneva
 22 Richardson. I certainly enjoyed working with her and I
 23 know the staff did as well. She did a great job. She
 24 was very sharp on policy. And we have posted the job
 25 and we are in the process of receiving and soliciting

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1 P R O C E E D I N G
 2
 3 CHAIRPERSON BUSCHING: This is the meeting of
 4 the Citizens Clean Elections Commission. The place is
 5 1616 West Adams, Suite 110, Phoenix, Arizona 85007. The
 6 date is Thursday, March 30th, 2006 at 9:30 a.m.
 7 I want to give notice that the Commission may
 8 vote to go into executive session which will not be open
 9 to the public for any item listed on the agenda for
 10 obtaining legal advice. Also minutes of and discussions
 11 made in an executive discussion are confidential
 12 pursuant to ARS 38-431.03(B) and shall not be released
 13 to anyone unless specifically authorized by law.
 14 All matters on the agenda may be discussed,
 15 considered, and are subject to action by the Commission.
 16 The agenda starts out with the first item, call
 17 to order, which has already been done. And the second
 18 item is approval of the March 15th, 2006 Commission
 19 meeting minutes.
 20 Are there any additions or corrections?
 21 If not, the Chair will entertain a
 22 motion.
 23 COMMISSIONER SCARAMAZZO: So moved.
 24 COMMISSIONER KUNASEK: Second.
 25 CHAIRPERSON BUSCHING: It's been moved by

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1 resumés, and so that's going well.
 2 We're working with the office of the Secretary
 3 of State on a software issue regarding Excel
 4 spreadsheets and the \$5 contributions and how you report
 5 those on the campaign finance report. There's a slight
 6 incompatibility and they've really gone after that and I
 7 think it should be resolved shortly.
 8 And I attended a debate on Clean Elections at
 9 the Goldwater Institute last night which was quite
 10 interesting and enjoyable. I can tell you about that
 11 after the meeting if you'd like.
 12 We have right now, I'll update you, there are
 13 132 participating candidates. The roster is growing
 14 every day. And as you see there, candidate for
 15 Superintendent of Public Instruction Tom Horne has
 16 received his funding. Senate candidate Albert Melvin,
 17 his application is pending.
 18 On voter education, we can update you. Mike
 19 actually attended another workshop down in Tucson last
 20 night and he reports that it went very well. We
 21 certainly thank Mike for that.
 22 We are still working on the debate sponsors and
 23 added a couple new ones since the last meeting and that
 24 recruitment process is ongoing. If you know someone in
 25 Pinetop who would like to sponsor a debate there, we

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1 would love to have them.
 2 You see we're getting ready to meet with --
 3 meet with the sponsors. That's tomorrow. So, that's --
 4 that's going well.
 5 Enforcement. You see where we are there.
 6 Nothing new to report.
 7 And so unless you have questions, that
 8 concludes my report.
 9 CHAIRPERSON BUSCHING: Commissioner Kunasek?
 10 COMMISSIONER KUNASEK: Yes, Madame Chair. I do
 11 have a question. On the enforcement subject, 2006 two
 12 complaints were filed and no action was taken. What's
 13 the process when a complaint is filed?
 14 MR. LANG: Well, there's --
 15 COMMISSIONER KUNASEK: Who determines that
 16 there will be an action or no action?
 17 MR. LANG: Madame Chair, Commissioner Kunasek,
 18 the way the process works is when we receive a
 19 complaint, the staff reviews it to make sure that it
 20 complies with sort of the procedural and technical
 21 requirements as it's sworn to, et cetera, et cetera, et
 22 cetera.
 23 Once that's done, assuming it doesn't meet
 24 those requirements, then it's rejected and sent back to
 25 the person filing the complaint. If it meets those

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1 requirements, then I would review it and make a
 2 recommendation to the Commission as to whether to take
 3 action or no action and then we proceed from there.
 4 COMMISSIONER KUNASEK: So then the
 5 recommendation that you bring forth, provided of course
 6 it's all technically correct and properly filed -- I'm
 7 trying to figure out, are you the prosecutor then? Or
 8 are you the prosecutor that determines which action or
 9 should there be action taken?
 10 MR. LANG: I wouldn't characterize my role as
 11 prosecutor. I would characterize my role as an
 12 administrator. I make a recommendation and the
 13 Commission ultimately has to go through the various
 14 steps. The enforcement is actually done by the
 15 Assistant Attorney General. So if we have to proceed to
 16 an administrative hearing or like that, that would be
 17 handled by the Assistant Attorney General.
 18 COMMISSIONER KUNASEK: At the step of the
 19 review by the staff for technical sufficiency, is then
 20 the complaint returned to the complainant with the
 21 issues that they did not submit properly outlined?
 22 MR. LANG: In my habit and practice, yes. We
 23 alert -- we say that, for instance, we received a
 24 complaint at one point that was sworn to but it had no
 25 signature which was odd, and so we returned it to them

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1 and said this is the problem.
 2 COMMISSIONER KUNASEK: Okay.
 3 MR. LANG: So they were aware of the problem.
 4 COMMISSIONER KUNASEK: Then do they have the
 5 opportunity to sign it and resubmit it?
 6 MR. LANG: Sure. In fact, that's happened.
 7 COMMISSIONER KUNASEK: Okay.
 8 MR. LANG: That's happened.
 9 COMMISSIONER KUNASEK: All right. Thank you.
 10 CHAIRPERSON BUSCHING: Commissioner Jolley?
 11 COMMISSIONER JOLLEY: I would just like to
 12 comment to Todd, that I'm glad to see the community
 13 colleges are getting involved in the debate sponsorship
 14 in the outlying areas like Mohave County, Hutchinson
 15 County be included.
 16 MR. LANG: Madame Chair, Commissioner Jolley,
 17 Paula, Mike, and Christina are working hard and
 18 recruiting hard with the community colleges. We agree
 19 they're a wonderful resource and would do a great job.
 20 And when they're willing, we are willing.
 21 COMMISSIONER JOLLEY: Thank you.
 22 CHAIRPERSON BUSCHING: Any other questions or
 23 comments for Mr. Lang?
 24 If not, we'll move to Item IV, discussion and
 25 possible action on delegation to Executive Director the

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1 authority to issue no action letters in regards to \$5
 2 contribution form.
 3 Mr. Lang?
 4 MR. LANG: Thank you, Madam Chair,
 5 Commissioners. As you know, our Rule 702(B) allows
 6 candidates to request a no action letter on a planned
 7 campaign expenditure or fund-raising activity. And what
 8 we find is that there are some routine matters that come
 9 up constantly with staff and one of those is approval of
 10 \$5 forms.
 11 As you know, there's a clear set of
 12 requirements as to what those \$5 forms must have, and,
 13 in fact, we have a checklist in our office that we use
 14 and go over with candidates. And so we'd like -- we
 15 would like delegation or specific approval to issue
 16 those \$5 -- I mean, to action those no action letters
 17 regarding the forms, because it's rather a pro forma
 18 process. It's a checklist process. So, we would like
 19 that authority.
 20 Because, frankly, it would take up -- I believe
 21 it would take up too much of your time and also delay
 22 the process too long. We want to be able to get them
 23 back to the candidate as quickly as possible.
 24 CHAIRPERSON BUSCHING: Okay. Ms. Varela, do
 25 you have any comments on this matter?

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1 MS. VARELA: I don't. We've talked about it
 2 and we --
 3 CHAIRPERSON BUSCHING: You're fine with that?
 4 MS. VARELA: -- we're fine with that.
 5 CHAIRPERSON BUSCHING: Mr. Kunasek?
 6 COMMISSIONER KUNASEK: Madame Chairperson, is
 7 this -- has there been any thought given to having a
 8 standard form? A form available from this Commission,
 9 and if the candidate doesn't use it, you don't accept
 10 it.
 11 MR. LANG: Madam Chair?
 12 COMMISSIONER KUNASEK: The candidate would have
 13 to get their forms printed up based on the pattern
 14 provided by this office. And knowing then that the
 15 pattern was right, any deviation from that pattern would
 16 not be acceptable.
 17 MR. LANG: Madame Chairman, Commissioner
 18 Kunasek. We have thousand of pre-printed forms
 19 available in boxes in our office. So, they're readily
 20 available and we certainly encourage people to use
 21 those. I think though that if you precluded the use of
 22 campaign's own forms that comply with our requirements,
 23 you would have here a huge cry from both parties that
 24 was almost unanimous. In fact, we have several
 25 candidates here today and I bet if you asked for a show

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1 of hands, you would have no hands.
 2 And the reason is, folks want to be able to
 3 sort of tailor the form to meet the requirements of
 4 their particular campaigns. And what we found is that
 5 seems to work well so long as they meet the statutory
 6 requirements that we need. So, we want to accommodate
 7 them as much as we can.
 8 COMMISSIONER KUNASEK: Well, my point I guess
 9 is the form must have -- there's a minimum basic
 10 requirement of information.
 11 MR. LANG: That's right.
 12 COMMISSIONER KUNASEK: Whatever way the
 13 candidate wants to have that form printed with his name
 14 or whatever, as long as it has the minimum required
 15 information.
 16 MR. LANG: And that's what the no action letter
 17 is about. It's saying: You have that basic information
 18 that we require, you're good to go. But candidates want
 19 assurance of that. That's why they want the no action
 20 letter. They don't want to go out there collecting all
 21 these \$5 forms only to find that the Commission says
 22 these are invalid. So they want that assurance and
 23 that's why we provide the service.
 24 MS. VARELA: Chairperson, if I might?
 25 Commissioner Kunasek, there's already a rule in place

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1 that does exactly what you just talked about. 105(B)
 2 allows the candidates to develop their own form as long
 3 as the form substantially complies with the forms
 4 prescribed by the Commission. I think though the added
 5 step is that a lot of candidates will do that, but they
 6 want the assurance that it's okay to move forward. And
 7 this just gives Todd that flexibility. Because those
 8 requests come -- especially now that more people are
 9 going to be doing that. It gives Todd the flexibility
 10 to do that instead of wait until the next meeting,
 11 which, you know, you're only meeting once a month and
 12 the candidates want to start collecting.
 13 COMMISSIONER KUNASEK: There's only one word
 14 that troubles me, "substantially." That's a term of art
 15 that is subject to argumentation I would think.
 16 MR. LANG: Sure.
 17 MS. VARELA: Sure.
 18 COMMISSIONER KUNASEK: Take it out.
 19 MS. RICHARDSON: That's at the Commission's
 20 pleasure. You can do that. But it's in a rule so you
 21 would have to go there through the process.
 22 COMMISSIONER KUNASEK: Sure. I understand.
 23 MS. VARELA: It's at the Commission's pleasure
 24 to do that with that.
 25 CHAIRPERSON BUSCHING: Is there anyone from the

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1 public that wishes to speak to this matter?
 2 Okay. Any discussion by the Commission?
 3 If not, the Chair will entertain a
 4 motion.
 5 COMMISSIONER KUNASEK: Well, I would move,
 6 Madame Chair, that we -- the Executive Director be
 7 granted the authority to issue the no action letters
 8 with regard to the \$5 contribution form.
 9 COMMISSIONER SCARAMAZZO: I'll second that.
 10 CHAIRPERSON BUSCHING: Okay. It's been moved
 11 by Commissioner Kunasek and seconded by Commissioner
 12 Scaramazzo that we delegate to the Executive Director
 13 the authority no action letters in regard to the \$5
 14 contribution form.
 15 Any further discussion?
 16 If not, the Chair will call for the
 17 question, all in favor say "aye."
 18 (Chorus of ayes.)
 19 CHAIRPERSON BUSCHING: Opposed, nay?
 20 Chair votes aye. Motion carries.
 21 Item V, discussion and possible action on no
 22 action letter request for Janet Napolitano 2006
 23 regarding acceptance of \$5 contributions via joint check
 24 accounts.
 25 Mr. Lang?

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1 MR. LANG: Thank you, Madame Chair. There is
2 an interesting issue that crept up this election
3 cycle. And what you have here is -- Ms. Demarchi is
4 here today. What you have is a request by her on behalf
5 of the Napolitano campaign. That folks that turn in --
6 couples that turn in two \$5 slips, one for one spouse
7 and one for the other spouse, but only one check because
8 it's a joint account for \$10, be permitted to do so even
9 if the check is only signed by one person.

10 They make an interesting statutory argument
11 that basically suggests that those two \$5 contribution
12 forms are the specification required by the statute to
13 permit this to happen. I actually think it's a good
14 idea and I'd recommend it except for one thing, the
15 Commission needs to balance, which is we have several
16 candidates who -- who have collected the \$5
17 contributions under the instruction we gave them which
18 is you need the signature of both spouses. And I know
19 staff is concerned about that because that's what
20 they've been telling folks in our education meeting.

21 So, while I find this letter to raise an
22 interesting and valid point, I am concerned about the
23 candidates that's been out there doing it the way we
24 asked them to do it. So, I think that's something to
25 consider.

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1 CHAIRPERSON BUSCHING: Okay. Commissioner
2 Jolley?

3 COMMISSIONER JOLLEY: Yes. I have a question,
4 Todd. Well, whether you sign a check or not, how would
5 you differentiate if someone gave you \$10? If a husband
6 took \$10 out of his wallet and your wife filled out a
7 form and you filled out a form, I mean, how would you
8 differentiate between that?

9 Say, well, I gave her \$5 change and she gave it
10 back to me.

11 MR. LANG: Right. And that happens.
12 Candidates -- I mean, contributors give \$10 -- a \$10
13 bill with two slips and that's perfectly acceptable.

14 COMMISSIONER JOLLEY: Okay.

15 CHAIRPERSON BUSCHING: Commissioner Kunasek?

16 COMMISSIONER KUNASEK: I'm a little troubled by
17 it for the following reason, there's a Supreme Court
18 case in Arizona which I believe it was a joint account,
19 both -- both man and wife had the ability to sign on the
20 account, and a contribution was made to a candidate.
21 Forgive me because it's been a number of years as far as
22 the details of it.

23 But the candidate [sic] -- in this case the
24 husband -- denied that he had any role in providing the
25 campaign contribution that the wife made. And that case

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1 resulted in the removal from office of a corporation
2 commissioner.

3 I would be very careful if I were Governor
4 Napolitano and I'd want a separate check. If they went
5 to the trouble to fill out a separate form, I would
6 certainly want a separate check to preclude any question
7 arising as to was it in fact from both parties or did
8 both parties agree. Even though the wife or the husband
9 may have signed and may not have realized fully what
10 they were signing.

11 CHAIRPERSON BUSCHING: Mr. Lang?

12 MR. LANG: Madame Chair, Commissioner Kunasek,
13 I agree. That's the thing I always tell all the
14 campaign: When in doubt, don't do it. Abundance of
15 caution is always the better way to go.

16 I think the contrary argument though here would
17 be, well, we don't have that problem that you elude to
18 in the Supreme Court case because here we have the
19 indication that both parties are fully cognizant of the
20 donation because we have both parties signing a \$5 form.
21 So we don't have the problem of someone denying the
22 check was from them as well.

23 COMMISSIONER KUNASEK: Okay. Thank you.

24 CHAIRPERSON BUSCHING: As to your concern, Mr.
25 Lang, about the other candidates, would this be -- if we

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1 were to approve this no action letter, would this be
2 something that could be turned into a policy statement
3 to be approved at the next meeting or is that something
4 that would take a longer period of time?

5 MR. LANG: I -- Madame Chair, I think it could
6 be a policy statement, but that doesn't change the fact
7 we have candidates who have already been funded --

8 CHAIRPERSON BUSCHING: Right.

9 MR. LANG: -- who went to the effort of going
10 back and sending checks back to people saying, hey, we
11 need a new check from both of you, or signed by both of
12 you, or whatever.

13 CHAIRPERSON BUSCHING: Right. I understand.

14 MR. LANG: I guess my point is, I guess this is
15 a good policy and I agree with Ms. Demarchi's analysis.
16 I'm just concerned about --

17 CHAIRPERSON BUSCHING: Okay.

18 COMMISSIONER SCARAMAZZO: This is the first
19 time this question has been raised though, correct?

20 MR. LANG: It's been raised in the past, but,
21 frankly, I've never been persuaded by the folks who
22 agree with Ms. Demarchi until I read her letter. I
23 think it was pretty persuasive.

24 CHAIRPERSON BUSCHING: I note that there's a
25 member of the public that wishes to speak. We're going

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1 to limit comments today to two minutes because we have a
2 lot of policy things to go through.

3 MS. LUBIN: Sure. I can just stand here.
4 Barbara Lubin with the Clean Elections Institute and
5 candidate in 2002.

6 And I'm fully in favor of this change in
7 policy. It's a real pain to get people from all over
8 this valley, and in fact the entire state, filling out
9 these separate forms because both of them didn't sign a
10 joint account, to have to track them down and get them
11 to resubmit a check. I've gone through that.

12 And regarding Mr. Lang's concern about a change
13 in this policy here in late March of an election cycle,
14 I still think that it's an appropriate change to make.

15 And I note that in the 2000 election that the
16 Commission that was in place at the time insisted that
17 all candidates use the state-provided three-part form.
18 That was -- that was the necessity, even though I had
19 requested back in September that we be able to use the
20 Internet to have a one-part form. Well, when more
21 candidates started running and it got to be the late
22 spring and the Commission realized what a burden it is
23 if you did not have that exact form when you were up in
24 Page or down in Yuma, that you couldn't get a \$5 form,
25 they made a change that people could download a form in

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1 We were all following the little blue book that
2 you all give to us in the workshop. And it says very
3 carefully for the last six or seven years, "If a married
4 couple submits a \$10 check" -- in bold languages --
5 "both spouses must sign the check for it to be
6 considered two valid qualifying contributions, and each
7 spouse must sign and date the three-part form." Now --
8 or one check, two forms.

9 So, I mean, here we are, the races have begun,
10 and now we're changing the rules because somebody
11 doesn't want to comply with it. Now, this has been on
12 the books and been enforced by this Commission. And now
13 after I did an enormous amount of work which I would
14 assume a lot of candidates have done out there because
15 we know how hard and difficult it is. But we were all
16 following the rules we were instructed to do.

17 If you pursue and -- and change the policy, I
18 would, you know, I think that I'd have to ask you if you
19 would not consider reimbursing me for the time, energy,
20 money, and sweat that I spent because I followed the
21 rules as a Clean Elections candidate.

22 So, Madame Chairman, I, you know, I don't want
23 to be treated differently. I don't want anybody else to
24 be treated differently. But the rules were the rules.
25 We all knew it when we choose to become Clean Elections

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1 order to receive those contributions and then make
2 duplicate copies.

3 So, I just want to point out that the
4 Commission has changed policy on things in the middle of
5 the campaign for the ease of the process and to
6 encourage people to be involved in the process. So, I'm
7 in favor of this change. Thank you.

8 CHAIRPERSON BUSCHING: Thank you. I see that
9 another member of the public wishes to speak. Once
10 again, we're limiting comments to two minutes.

11 MS. BREWER: Thank you, Madame Chairman and
12 members of the Commission. I have some concerns about
13 this. This is what all the candidates that have elected
14 to run as Clean Elections has followed. And we have
15 done this and I have done this since August, September,
16 following the rules. You've already had 20 workshops
17 people have come to. This law or this rule has been in
18 place since the inception and it is not easy but it
19 doesn't seem fair now to change the rules.

20 Those of us who have complied, we had to send
21 the check back, we had to wait to get it signed, keep
22 track of it, we had to accompany it with a letter, we
23 had to send a self-stamped envelope so we would know we
24 would get the \$5 bill back. And, you know, we were all
25 following the rules and the law.

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1 candidates. Thank you.

2 CHAIRPERSON BUSCHING: Thank you. Anyone else
3 wish to speak? Yes.

4 MS. DEMARCHI: Madame Chairwoman,
5 Commissioners. My name is Kim Demarchi and I'm here on
6 behalf of the governor's reelection campaign today. Let
7 me start out by assuring you that there seems to be some
8 misimpression as to the campaign's intention to follow
9 the law. The campaign specifically instructed everyone
10 who volunteered to solicit contributions, specifically
11 put on its website where you can download the
12 contribution form: Spouses both have to sign the check.
13 We never told anyone anything different. We never tried
14 not to follow the guidance of the Commission in this
15 regard.

16 The problem we ran into, is that hundreds of
17 people didn't understand what they were supposed to do.
18 We have at least 200 \$10 contributions from married
19 couples, each of whom expressed a specific intent to
20 authorize half of that contribution to be made in their
21 name. That's the only reason we've come forward.
22 Because there are 400 citizens of the state of Arizona
23 that thought they did it right.

24 I would suggest to you that if you read
25 carefully the authorities in the letter, the only place

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1 where the suggestion that both spouses have to sign the
 2 check comes within the candidate guide. It is not in
 3 this Commission's rules, it is not in the Commission's
 4 substantive policy statements, it is not in the statute.
 5 What Arizona statute says is a contribution on a check
 6 from a joint account is attributed to the person who
 7 signed the check, unless the check is received with a
 8 specific direction that the money should be split
 9 differently.

10 So what Arizona law says is, if you get a check
 11 for \$10 or you're running conventional and you get check
 12 for \$200 and it comes with a letter signed by me and my
 13 husband that says, attribute half of it to Kim and half
 14 of it to Eddie, what Arizona law says to do is attribute
 15 it between the two candidates. I have enormous respect
 16 for the campaigns that have struggled to comply with
 17 this guidance and I don't mean any disrespect by it.
 18 But, rest assured, we're doing this because 400 people
 19 want to give this money and we assume lots of people
 20 want to give money like this to other candidates too.
 21 We're trying to make sure they can give that money.

22 CHAIRPERSON BUSCHING: Thank you. Anyone else
 23 wish to speak to this?

24 If not, we'll turn to discussion by the
 25 Commissioners or a motion.

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1 Well, to get discussion going, I've heard good
 2 arguments on both sides, but I think that to the extent
 3 that we can stay within the law but make it easier on
 4 campaigns that we should try to do so. And since the
 5 issue has not been -- has not been dealt with before, I
 6 don't think that it's a situation where we've told or
 7 where we specifically have required somebody -- other
 8 than as I understand to be in the candidate guide -- to
 9 do something that we're now going to reverse.

10 So, I personally am in favor of the no action
 11 letter request and incorporating it into a policy
 12 statement as soon as possible. But I'm open to
 13 influence by my fellow Commissioners.

14 Commissioner Jolley?

15 COMMISSIONER JOLLEY: Yes. Well, I agree with
 16 you, because, like I stated before, someone gives you
 17 \$10, how are you going to differentiate between who gave
 18 \$5 and who gave \$5. So I'm in favor of it.

19 CHAIRPERSON BUSCHING: Commissioner Kunasek?

20 COMMISSIONER KUNASEK: If the Commission
 21 decides to change or to modify the policy in midstream,
 22 I cannot agree with that. If the policy is going to be
 23 modified, it should be in the next election cycle that
 24 -- after this election cycle is completed.

25 I would -- would certainly hope that -- that

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1 the effort it takes to write two checks is not much more
 2 than the effort of two people to sign the same check.

3 So, I really don't see where the problem is,
 4 but I will accept that if there is a problem, it should
 5 be changed. But I think on the other hand, it should be
 6 changed in the next election cycle.

7 COMMISSIONER SCARAMAZZO: I guess that's what
 8 I'm struggling with also. It's just after the fact. I
 9 wish this would have been brought up, you know, coulda,
 10 shoulda, woulda, but it wasn't.

11 And I do have concerns for the candidates who
 12 have been out there following our rules and come in
 13 after the fact to change that. That doesn't sit real
 14 well. And even though I think it's a great policy
 15 change, the timing doesn't really sit well with me right
 16 now.

17 CHAIRPERSON BUSCHING: Okay. And keep in mind
 18 everyone that right now we're on agenda Item V, which is
 19 only a no action letter request. So we're not -- it's
 20 not the actual -- an actual policy change.

21 COMMISSIONER SCARAMAZZO: I understand that.

22 CHAIRPERSON BUSCHING: All right.

23 COMMISSIONER KUNASEK: Maybe I should have an
 24 explanation of what it means with regard to this. What
 25 does a no action letter mean?

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1 CHAIRPERSON BUSCHING: I'll turn to Mr. Lang.

2 MR. LANG: Madame Chair, Commissioner Kunasek,
 3 it's basically an opportunity for a campaign to get
 4 assurances from the Commission that they won't face an
 5 enforcement action.

6 COMMISSIONER KUNASEK: So this --

7 MR. LANG: In other words, if they go ahead and
 8 submit these slips, somehow we won't attempt to
 9 invalidate them or otherwise enforce it against them.

10 CHAIRPERSON BUSCHING: Mr. Lang, I have a
 11 question in that regard. Since we're not the ones that
 12 review and approve them anyway, it's done by the
 13 Secretary of State's office and/or the County -- County
 14 Recorders -- I guess it's County Recorders. I mean, do
 15 we really have -- I mean, is this really something we
 16 should be taking action on?

17 MS. VARELA: Well, the -- the contributions go
 18 to the candidate and they write one check to the
 19 Secretary of State's office. All of the qualifying
 20 contribution forms get submitted to the Secretary of
 21 State's office and then they process them. In terms of
 22 determining whether -- they do a sampling and determine
 23 whether there's enough of those based on some
 24 statistical analysis that they do.

25 And in terms of the money -- and Kim may know

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1 this too -- but all of the money that the candidate
2 collects gets submitted to the Secretary of State's
3 office in one check. So, they're not going to keep all
4 these \$5, \$10, \$20 bills in individual checks. They're
5 going to deposit them into their campaign account and
6 then write one check to the Secretary of State's office
7 along with all those contribution forms.

8 CHAIRPERSON BUSCHING: Okay. And my question
9 is, is it within our jurisdiction to go back and review
10 the candidate's records to determine whether they
11 received the money in the form of cash, or in the form
12 of a check written by two people, or check written by
13 one person, or what? And is that something that we get
14 into?

15 MR. LANG: Well, Madame Chair, it certainly can
16 come up in some sort of enforcement action where there's
17 an allegation that all the -- all the checks were
18 fictitious or there was some sort of allegation of fraud
19 or misdeeds. We certainly have the authority to
20 subpoena those checks as part of their campaign finance
21 record and look at them.

22 So, although you're correct that, you know, the
23 approval of forms is something that the Secretary of
24 State does. Ultimately as part of the certification
25 process for candidates, they agree to do things by our

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1 that context this -- this could arise as well. So --

2 All right. Further discussion?

3 COMMISSIONER JOLLEY: I have a question.

4 CHAIRPERSON BUSCHING: Yes.

5 COMMISSIONER JOLLEY: So, you actually have
6 those that support you sending you cash in an envelope?

7 I mean, cash cash, like \$5 or \$10, is that correct,
8 through the mail?

9 CHAIRPERSON BUSCHING: They have the ability
10 to.

11 COMMISSIONER JOLLEY: Okay.

12 CHAIRPERSON BUSCHING: Yeah.

13 MR. LANG: I wouldn't recommend it, but --

14 CHAIRPERSON BUSCHING: Someone want to make a
15 motion?

16 Commissioner Jolley?

17 COMMISSIONER JOLLEY: Yes. I would move that
18 we accept the no action letter requested from Janet
19 Napolitano's 2006 regarding acceptance of \$5
20 contributions via joint checking account.

21 COMMISSIONER KUNASEK: I'd make a substitute
22 motion that the policy change be delayed until the next
23 election cycle.

24 CHAIRPERSON BUSCHING: So, your substitute
25 motion would be to not take action on the no action

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1 rules and by our procedures, and I think this would fall
2 under that.

3 CHAIRPERSON BUSCHING: Okay.

4 COMMISSIONER KUNASEK: So it would appear to me
5 then hearing the process, this letter is not necessary.
6 If the candidate cashes all the checks, deposits it into
7 the candidate's account, the candidate then submits a
8 check for the total amount of contributions and they
9 submit the forms, there would have to be an awful lot of
10 administrative investigation to determine if there were
11 two checks or one check. And it appears to me that that
12 would be the case.

13 So is this -- is this letter really
14 necessary?

15 CHAIRPERSON BUSCHING: Well, but what I'm
16 hearing from Mr. Lang is that, as the Commission, we
17 have -- if on an extreme situation -- and this being one
18 subset of it -- an extreme situation, a candidate didn't
19 go out and collect any \$5 contributions but only got
20 forms signed then used his or her own money and
21 deposited into the account to then turn it into the
22 Secretary of State, we would have the ability and right
23 to determine by investigation whether, you know, talking
24 to each individual contributor or whatever, and whether,
25 in fact, they paid the \$5 to the candidate. And so in

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1 letter request?

2 COMMISSIONER KUNASEK: Uh-huh.

3 CHAIRPERSON BUSCHING: Okay. Is there -- well,
4 is there a second to the substitute motion?

5 COMMISSIONER SCARAMAZZO: I'll second that.

6 CHAIRPERSON BUSCHING: Okay. It's been moved
7 and seconded that the Commission not take action on the
8 no action letter request; which -- correct me if I'm
9 wrong -- my understanding is then we would not issue any
10 advice or guidance and the campaign would have to make
11 its own determination as to what to do about the
12 situation?

13 MR. LANG: That's correct.

14 COMMISSIONER SCARAMAZZO: I think in the
15 motion, I think it's also go ahead and bring this back
16 up after the election cycle.

17 COMMISSIONER KUNASEK: Yes.

18 CHAIRPERSON BUSCHING: And to bring it back up
19 after the election cycle.

20 Okay. Any further discussion?

21 If not, the Chair will call for the question,
22 all in favor say "aye."

23 COMMISSIONER SCARAMAZZO: Aye.

24 COMMISSIONER KUNASEK: Aye.

25 CHAIRPERSON BUSCHING: Nay?

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1 COMMISSIONER JOLLEY: Nay.
 2 CHAIRPERSON BUSCHING: The Chair will vote aye
 3 and the motion carries.
 4 Okay. The next item is Item No. VI, discussion
 5 and possible action on the following substantive policy
 6 statement: A) No. 1, modification, collection of
 7 qualifying contributions prior to certification.
 8 Mr. Lang?
 9 MR. LANG: Thank you, Madame Chair. You have
 10 before you two versions of proposed changes to public
 11 policy statement number one. Just simply clarify the
 12 Commission policy regarding because this issue has come
 13 up. Traditionally what we found is a number of
 14 candidates, although many candidates get certified first
 15 and then collect \$5 contributions, many candidates
 16 aren't sure whether they will be able to collect the \$5
 17 contributions sufficient to qualify for funding. And so
 18 what they do is they test the waters by going out, they
 19 become a candidate properly with the Secretary of State,
 20 but before being certified with the commission as a
 21 participating candidate, they go out and try to collect
 22 \$5 contributions.
 23 And what Version 2 would do is allow them to do
 24 so, but what it would do in order to sort of -- because
 25 the issue has been raised about folks that didn't return

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1 appearance of the word candidate and that clause is, "To
 2 treat the qualifying contribution as a general campaign
 3 contribution." Move that clause, the "to treat" clause
 4 up to after "authorizes the candidate."
 5 So it would read, "The original \$5 form that
 6 authorizes the candidate to treat the qualifying
 7 contribution as a general campaign contribution" and
 8 then it would go on, "if he or she decides not to
 9 participate as a public-funded candidate." That, I
 10 believe, reads better.
 11 CHAIRPERSON BUSCHING: Okay.
 12 COMMISSIONER KUNASEK: I would agree with that
 13 change because I had the question as to how you would
 14 know -- how the candidate would know in the absence of
 15 checking the box who doesn't want to contribute. But,
 16 moving it up there, I think it ties it all together.
 17 CHAIRPERSON BUSCHING: Okay. Are there other
 18 questions or comments to Mr. Lang?
 19 Are there -- is there anyone from the public
 20 that wishes to speak to this matter?
 21 Okay. Any further discussion?
 22 If not, the Chair will entertain a motion.
 23 COMMISSIONER SCARAMAZZO: I'd move to approve
 24 Version 2 of the changes to substantial policy statement
 25 and modify the collection of qualifying contributions

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1 the \$5 contributions -- it would require them to notify
 2 the Commission in writing of this -- of their intent and
 3 of what they're doing so we can keep track of the \$5
 4 contributions, and make sure they're either certified,
 5 or become a non-participating candidate, or return the
 6 money.
 7 Version 2 is what I recommend. It would allow
 8 them to test the waters because we want to encourage
 9 that sort of participation; but it also, I think,
 10 practically acknowledges the reality that not everyone
 11 can qualify for public funding and this gives them a
 12 chance to see. So, as you can see there, what it does
 13 it allows them to do so but also requires them to either
 14 return the money or get written permission to transfer
 15 that money to a traditional account if they decide to
 16 run traditionally.
 17 CHAIRPERSON BUSCHING: Okay. Thank you.
 18 MR. LANG: Madame Chair?
 19 CHAIRPERSON BUSCHING: Yes.
 20 MR. LANG: I'd like to make a, I think,
 21 grammatical improvement to the proposal. If you see
 22 towards the bottom where it says in quotes, "Written
 23 permission may include a check box on the original \$5
 24 form that authorizes the candidate." After the word
 25 "candidate," take the clause that follows the next

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1 prior to certification again utilizing Version 2.
 2 COMMISSIONER KUNASEK: With the grammatical --
 3 COMMISSIONER SCARAMAZZO: With the change, yes.
 4 COMMISSIONER KUNASEK: I would second that.
 5 CHAIRPERSON BUSCHING: It's been moved by
 6 Commissioner Scaramazzo and seconded by Commissioner
 7 Kunasek that we approve Version 2 with the grammatic
 8 change previously as so noted.
 9 All in favor say, "aye."
 10 (Chorus of ayes.)
 11 CHAIRPERSON BUSCHING: Opposed, nay?
 12 Chair votes aye. Motion carries.
 13 All right. Substantive -- paragraph B) No. 11,
 14 reporting travel-related expenditures. And I'm going to
 15 take up paragraph C, number 13, use of privately owned
 16 airplanes, motor vehicle, and accommodations together
 17 because I think we -- it may turn out to make sense to
 18 be talking about them both at the same time.
 19 So with that, Mr. Lang.
 20 MR. LANG: Well, Madame Chair, you out did me.
 21 As you can see, I had a proposal to change number 11 and
 22 basically what the change to 11 was is to incorporate
 23 the language that the Commission was concerned about in
 24 the last meeting, because I felt that language was more
 25 general about travel-related expenditures and I wanted

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1 -- I thought it should be seperated out from 13, it's
 2 more about specifically applying airplanes or cars.
 3 So, what you have there are two proposals by
 4 me, one changing 11 to, I think, improve it the way we
 5 discussed. And one -- and another to 13 which would be,
 6 I think, easier to read and easier to understand.
 7 However, the Chair came up with a new number 11 that
 8 actually incorporates all 13, would render 13 a nullity.
 9 After reviewing that, I actually recommend the
 10 new number 11 because I think it simplifies this
 11 complicated proceeding that's been going on for months
 12 quite a bit. So, I would suggest that we consider -- or
 13 that the Commission consider substantive policy
 14 statement 11 as proposed by Chair Busching.
 15 CHAIRPERSON BUSCHING: And that, just for --
 16 yeah -- everyone's reference, has down at the bottom,
 17 "Comments from Busching."
 18 COMMISSIONER KUNASEK: Okay.
 19 CHAIRPERSON BUSCHING: Which came as a result
 20 of getting the meeting packet.
 21 COMMISSIONER KUNASEK: You read it.
 22 CHAIRPERSON BUSCHING: Indeed.
 23 Any questions of Mr. Lang? Commissioner
 24 Kunasek.
 25 COMMISSIONER KUNASEK: What's magic about 50

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1 percent? The example would be, if you're on a trip and
 2 it is one campaign stop but the next stop is to go
 3 fishing, why 50 percent of the whole trip? Why not 50
 4 percent of the cost to go to the campaign stop?
 5 Is that the way I'm reading it?
 6 MR. LANG: Uh-huh.
 7 COMMISSIONER KUNASEK: Okay.
 8 MR. LANG: Madame Chair, Commissioner Kunasek,
 9 actually that was already addressed and approved by the
 10 Commission in substantive policy statement 12.
 11 CHAIRPERSON BUSCHING: Last time.
 12 MR. LANG: Last time. And so I hate to revisit
 13 it, but to answer your question, the theory there is
 14 that, what we wanted to preclude was -- and this was
 15 made by suggestions, this actually came up from
 16 suggestions from the public. The concern was raised
 17 that campaigns of incumbents will come up with official
 18 business to justify treating only a small percentage of
 19 the trip as a campaign stop, when, in fact, the whole
 20 reason for the trip was the campaign stop. So you have
 21 somebody: Oh, we want to go raise money in Flagstaff,
 22 let's do six official events in Flagstaff and that way
 23 we only have to claim one-sixth of the trip as a
 24 campaign and really we all know it was all campaign.
 25 So, the theory here was the 50 percent gets rid

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1 of some of that game playing. I'm sure there are many
 2 incumbent candidates who think it should be a lower
 3 number though and I think that's your point.
 4 COMMISSIONER KUNASEK: I was just trying to
 5 figure it out in case I ever campaign again.
 6 MR. LANG: Well, then you may want to lower it
 7 then.
 8 COMMISSIONER SCARAMAZZO: Should we get our \$5
 9 ready?
 10 COMMISSIONER KUNASEK: Afraid not. Save it.
 11 COMMISSIONER SCARAMAZZO: Okay.
 12 MR. LANG: Madame Chair, I would also point out
 13 and I would like to suggest, just for clarity under
 14 C(2), there's the language referring to the value of an
 15 in-kind contribution. And what I would suggest under
 16 there at C(2) and also at D there's also a reference to
 17 in-kind contribution. I suggest after the term "in-kind
 18 contribution" that we actually have an asterisk and that
 19 the asterisk then refer down below to just a reminder
 20 that would -- the language would say something along the
 21 lines: Participating candidates must comply with the
 22 restrictions of ARS 16-941(A)(1) and 16-945.
 23 Basically what that means is you can't accept
 24 the in-kind contribution after the deadline if you're a
 25 participating candidate. Of course, non-participating

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1 candidates can accept them throughout, but we want to
 2 make sure that participating candidates somehow think
 3 this gives them permission to accept in-kind
 4 contributions after the time has -- after the time has
 5 run to do that.
 6 CHAIRPERSON BUSCHING: I think that's a good
 7 addition.
 8 I have been questioned by our legal counsel
 9 about I have two distances referenced in the draft that
 10 I drafted. One in C(1), "Transportation costs, length
 11 of trip. If the one-way length of a trip is less than
 12 40 miles from the candidate's home or office, then no
 13 reporting of travel-related expenditures is required."
 14 And then secondly over in E(1), "For
 15 campaign-related trips of more than 80 miles, a
 16 candidate shall keep an itinerary of the trip," et
 17 cetera, et cetera.
 18 And the question has been raised, where do
 19 these numbers come from? And when I drafted it, I
 20 thought that for most -- for most candidates in most
 21 legislative districts, that would mean they wouldn't
 22 have to report and wouldn't have to keep an itinerary of
 23 the trip and it wouldn't -- so, it would be fair to all
 24 of the candidates in that particular district.
 25 I realize that there's districts in some

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1 outlying counties where to go across the district is
2 more than 40 miles and so they would have to start
3 keeping a log. But I thought that it just was too much
4 recordkeeping. Myself, I mean, I thought that, you
5 know, there was just no reason that we needed to get
6 into that kind of detail.

7 I have had arguments made to me against that.
8 That it's not fair. That, you know, you're going to
9 have a big loophole that people could -- they could do
10 all kinds of traveling and never have to report it. And
11 so, I think that's an issue that we should at least
12 discuss if not receive legal advice on.

13 And I think that's the only issue that -- oh,
14 and the other issue that has come up is in B(1) and (2).
15 Last time when we talked about differentiating people
16 traveling with the candidate, we put spouse in with the
17 candidate and treated the spouse as the same as the
18 candidate for all purposes. But the proposal that we
19 had to include family members we did not approve.

20 Well, when I went back to look at the statute,
21 I discovered that a contribution in 16-901.5(B)(4), "A
22 contribution does not include any unreimbursed payment
23 for personal travel expenses made by an individual who
24 on his own behalf volunteers his personal services to a
25 candidate." And there was not that differentiation

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1 between spouse and candidate, nor was there a
2 differentiation of spouse and candidate under
3 subparagraph two where a candidate is defined as only
4 the individual running for office.

5 So after considering the statute, I felt that
6 we couldn't in the policy statement bring in spouse and
7 treat the spouse like the candidate, and that's why
8 that's different than what we had talked about at the
9 last meeting.

10 Those are two issues that maybe where we have
11 further discussion, or comment, or questions, or
12 executive session for legal advice, or whatever anybody
13 wants.

14 Commissioner Jolley?

15 COMMISSIONER JOLLEY: Yes. I have a comment.
16 Because, you know, I live in an area that's remote, so
17 if you have a candidate that lives, let's say, in Yuma
18 that's traveling to Tacna, that's 60 miles one way. So
19 they would have to keep a log each time they went out
20 there, unless they went to Wellton which is 40 miles and
21 then clock there and then say Wellton I traveled another
22 20 miles to Tacna. So they wouldn't have to keep a log
23 at that time?

24 CHAIRPERSON BUSCHING: Except that the way I
25 drafted it under E(1), if the whole trip is more than 80

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1 miles, they would have to keep a log.

2 COMMISSIONER JOLLEY: So, that would -- well, I
3 think --

4 COMMISSIONER SCARAMAZZO: I think I feel
5 Ermila's frustration just from a rural perspective. It
6 sure seems to slant to somebody, you know, living in a
7 metropolitan area that would exclude them from rules
8 that would apply to somebody in the outlying area. Like
9 you said, 40 miles, that's a chip shot down the road.
10 Up in northern Arizona, it really doesn't apply.

11 CHAIRPERSON BUSCHING: I wholeheartedly agree.
12 It's, you know, having -- and, I mean, my thinking --
13 and, you know, I want obviously discussion and
14 everything -- my thinking was, it's a whole lot's easier
15 for me in keeping records for the IRS to remember if I'm
16 driving from here to Flagstaff and keep a record because
17 it's a longer trip than I'm going here to -- or from
18 here to Scottsdale, you know. The short trips I just
19 have a much harder time remembering.

20 So, I was thinking, you know, hey, you know, if
21 we're going to try to do it as easy as possible on
22 candidates, you know, let's have some arbitrary limit.
23 Whether it's 40 miles or some other number, I don't
24 care. But let's have some arbitrary limit where, you
25 know, if they go on a campaign trip for a distance, then

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1 they need to keep a log, you know, is my thinking on it.
2 But I'm open to suggestions.

3 COMMISSIONER KUNASEK: I'm wondering if there's
4 a number we could -- and I haven't -- my question was,
5 and I didn't distinguish between the related trip and
6 the one-way trip, but if it's 40 miles one way, getting
7 back 40 miles, you know, they don't have to keep the log
8 going 40, why do they have to keep it coming back?

9 Why don't we change the word for
10 campaign-related trip of more than -- or one way more
11 than 80 miles? Would that -- say if the one-way length
12 of the trip is less than 40 miles.

13 CHAIRPERSON BUSCHING: Uh-huh.

14 COMMISSIONER KUNASEK: If the related trip, the
15 total trip is less than 80 miles. So that then that
16 would cover the 40 miles out and 40 miles back, but if
17 you're going out 80 miles, you're going to have to come
18 back anyway. It's probably a trip you'd have to keep a
19 log on.

20 CHAIRPERSON BUSCHING: So your proposal would
21 be to do, what? I'm a little bit confused.

22 COMMISSIONER KUNASEK: Okay. I think the
23 simplest way to do it would be for campaign-related
24 trips of more than 80 miles, a candidate shall keep an
25 itinerary of the trip and the rest of the requirements.

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1 And then back on C(1), the length of the trip we could
 2 probably just eliminate that. Because if the trip --
 3 total related cost of the trip is more than 80 miles, we
 4 don't have to distinguish one less than 40 miles.
 5 CHAIRPERSON BUSCHING: Okay. So you would just
 6 take -- take one out? Take C(1) out?
 7 COMMISSIONER KUNASEK: I'd take C(1) out and I
 8 think that would satisfy my concern. Because my
 9 question was there's a limbo between 40 and 80, but
 10 knowing the difference in the way the trip was defined.
 11 CHAIRPERSON BUSCHING: Uh-huh. Okay.
 12 COMMISSIONER SCARAMAZZO: I guess I still have
 13 a little issue with it being arbitrary on, you know, is
 14 a campaign expenditure a campaign expenditure if I go
 15 three miles versus 125 miles? I understand that it's
 16 more of a pain to keep track of that, but by the same
 17 token it's all the same. In essence you're using it as
 18 an expenditure, so why -- I don't know. That's just
 19 sitting a little wrong with me.
 20 What legally can we --
 21 MS. VARELA: Well, I would recommend going into
 22 executive session to get legal advice on this.
 23 CHAIRPERSON BUSCHING: Should -- would you
 24 recommend that we do it before we take public comment or
 25 should we take public comment first?

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1 MS. VARELA: However you want to do it.
 2 COMMISSIONER SCARAMAZZO: Public comment, why
 3 don't we.
 4 CHAIRPERSON BUSCHING: Okay. Can you hold that
 5 thought then?
 6 COMMISSIONER SCARAMAZZO: Sure. It's not going
 7 anywhere. I've got five minutes before I forget.
 8 CHAIRPERSON BUSCHING: All right. Is there
 9 anyone from the public that wishes to speak to this
 10 matter?
 11 MR. ROSEN: Are you talking all -- the
 12 combined?
 13 CHAIRPERSON BUSCHING: I think we're focusing,
 14 yes, now on the version that says, "Comments from
 15 Busching." I think that's Mr. Lang's recommendation
 16 that we focus on.
 17 THE COURT REPORTER: Sir, Can I get your name?
 18 MR. ROSEN: Arthur Rosen.
 19 CHAIRPERSON BUSCHING: Yes, we're going to
 20 limit comments to two minutes today.
 21 MS. BREWER: Madame Chairman -- I'll try to
 22 make it as quickly as possible -- and Commissioners. I
 23 came prepared to address the agenda the way it was
 24 printed and posted; however, now I see we've deviated
 25 from the agenda posting by combining all of these

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1 together.
 2 But I believe, Chairman Busching, that you
 3 proposed to include number 11 which includes materials
 4 and stuff that's contained in substantive policy
 5 statement number 12. And if you adopt this new number
 6 11, it would conflict with your statement in number 12,
 7 and I don't think -- I do not believe statement number
 8 12 has been posted on your agenda. And, in essence,
 9 have a conflicting public policy statements. And you
 10 can't repeal statement 12 because you didn't notice it.
 11 So, I think that we have now created another
 12 whole complete conflict of what we're dealing with in
 13 accordance with the agenda as published. And I
 14 appreciate your attentiveness to trying to combine all
 15 of these things, but I think it would make it a lot
 16 easier for those of us who are not legal scholars to go
 17 back to the agenda the way it was written.
 18 And in conclusion, I would just like to -- and
 19 I appreciate your comments about the discussion last
 20 time in regards to the travel, because the discussion
 21 the way that I thought it went was that the spouses were
 22 to be included in the immediate family. And I
 23 appreciate the discussion between Mr. Scaramazzo and
 24 yourself and I would like to see that addressed.
 25 But today we're really letting the cat out of

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1 box and getting into all the other different subject
 2 matters and when you don't -- when you can't combine or
 3 blend with 12 because it's not on the agenda, then we
 4 create other problems.
 5 CHAIRPERSON BUSCHING: Thank you. Actually,
 6 I'm subject to being told otherwise, but I think that
 7 what's been incorporated into this draft of 11 does not
 8 differ from what was in 12 that was approved by the
 9 Commission on March 15th of 2006. So, if someone sees a
 10 change or specifically a conflict, then I agree we need
 11 to address that.
 12 Is there anyone else from the public that
 13 wishes to speak to this matter?
 14 Please come forward and state your name.
 15 MS. SMITH FLOREZ: Me?
 16 CHAIRPERSON BUSCHING: Yes, you.
 17 MS. SMITH FLOREZ: Jan Smith Florez. I'm a
 18 candidate for governor and I am a Clean Elections
 19 candidate. I appreciate what Secretary of State Brewer
 20 said, because I don't really know what you're talking
 21 about so I hope you do. Because things have been
 22 changed and the problem with vehicle travel as I
 23 indicated to you last week was -- and I don't know, we
 24 talking airplanes here at all yet or even get to
 25 airplanes yet?

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1 CHAIRPERSON BUSCHING: Do you have a copy of
2 this version?

3 MS. SMITH FLOREZ: I had looked at it on -- I
4 think it was on the Internet last night. Yes, I looked
5 at it there.

6 My problem is, is that you -- you make it
7 harder. Today I'm on my way to my house in Nogales
8 which is my primary house. I have a house here. I'm
9 stopping by here. I stopped by the post office which is
10 on the way here. And I'm -- that's about a 150, -70
11 miles that I'm going. I need to know what I'm to charge
12 to the campaign and what I am not. And you keep
13 changing the rules. Keep changing things.

14 I think there's some in here that severely need
15 changed. I addressed those last time. But you guys,
16 please let us know what we're supposed to be doing
17 because none of us want to disobey. And it's very hard.
18 I think the simplest thing, I said it last time, is
19 this, Main has a -- Main says it this way, "Candidates
20 may elect to have the campaign reimburse themselves for
21 vehicle travel at the reimbursement rate that is
22 applicable to state government employees; therefore, the
23 amount that is actually paid for fuel, repairs prorated.
24 Candidates should keep a record of each trip that
25 includes travel miles, origination, destination and

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1 purpose." I assume that means for those that are going
2 to seek campaign funds to reimburse.

3 Why do we need all this? If you would just let
4 people contribute whether it's airplane, boat, car,
5 whatever? Why can't we just get it simple? The reason
6 it keeps being complicated is because you're trying to
7 make it complicated, not intentionally, but you are
8 making it complicated.

9 You are trying to, you know -- it's like how
10 many angles dance on the head of a pin. And it is
11 really making it very difficult for me as a candidate
12 and very difficult for all candidates. Believe me, we
13 talk about it. And what you just need to do is let
14 people contribute and forget it.

15 CHAIRPERSON BUSCHING: Thank you. Anyone else
16 wish to speak to this?

17 MR. ROSEN: Ma'am, I still misunderstood if
18 you're talking about airplane cost at this time.

19 CHAIRPERSON BUSCHING: Mr. Rosen, we are
20 talking about transportation costs generally and the
21 proposal deals with all modes of transportation in a
22 similar fashion.

23 MR. ROSEN: Then I would -- I misunderstood
24 which part of this you were on.

25 CHAIRPERSON BUSCHING: Yes. Please step

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1 forward. Two minutes, please.

2 MR. ROSEN: Thank you, ma'am. I was -- totally
3 misunderstood which part of this you were on and I don't
4 have your latest paperwork.

5 My name is Arthur Rosen representing the
6 Aircraft Owners and Pilots Association.

7 CHAIRPERSON BUSCHING: Mr. Rosen, maybe it
8 would make sense for you to let someone else speak and
9 you take -- since you didn't see what we were talking
10 about, take a minute and look at what we're talking
11 about before you speak.

12 MR. ROSEN: Did it change from 99-and-a-half
13 cents a mile?

14 CHAIRPERSON BUSCHING: No.

15 MR. LANG: That's one of the options.

16 CHAIRPERSON BUSCHING: That's one of the
17 options.

18 MR. ROSEN: There's more than that?

19 CHAIRPERSON BUSCHING: Yes.

20 MR. ROSEN: Okay. The only option I can
21 address which might help you all know and then I'll go
22 back and listen, is that I've worked very closely with
23 Mr. Lang after Mr. Kunasek's comments at the last
24 meeting, worked very closely with the FAA in Washington.
25 Did receive approval for private pilots to use airplanes

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1 for elections. The maximum allowance that the federal
2 government allows for private usage of an airplane is 91
3 cents a mile. We're at 99-and-a-half cents a mile right
4 now, as of the last item I've seen.

5 If we can get that changed to 91 cents a mile
6 which would not be considered excessive by the federal
7 government, I think then you solved that part of the
8 problem. And that's -- that's basically all I have to
9 say right now unless something different comes up.

10 CHAIRPERSON BUSCHING: Okay. Thank you.

11 MR. ROSEN: Thank you.

12 MR. LANG: Thank you.

13 CHAIRPERSON BUSCHING: Anyone else wish to
14 speak? Sir, two minutes.

15 MR. MAYS: My name is Richard Mays. I'm from
16 Fountain Hills. I submitted an alternative to the
17 policy. I'd like you to really consider that. Even --
18 Chair Busching went a long, long way. But last month at
19 the Commission meeting, Commissioners said: Combine the
20 use of travel into one policy.

21 This does this and this gives you three options
22 to use. It's simple. It's easy to understand and you
23 can go anyway you want. You can allow us to get
24 reimbursement up to the maximum, which I think is the
25 best policy personally.

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1 Then option two is virtually similar to your
2 current car policy because it says that you can discount
3 that state reimbursement rate. Right now you can
4 discount to 10 cents. This says you can discount 25
5 percent of the state reimbursement rate. Or option
6 three which says the candidates pay the state
7 reimbursement rate.

8 Each one of these say you got to keep a record
9 for your travel. It's based on the administrative
10 rules. It's clean, easy, and simple.

11 CHAIRPERSON BUSCHING: Thank you, sir.

12 Anyone else from the public wish to
13 speak? Okay.

14 MS. BREWER: Madame Chair, members of the
15 Commission. I am before you as a candidate for
16 re-election of Secretary of State. And I've gone to all
17 the required meetings. I have followed all the rules
18 that were instructed in the Clean Elections' workshops.
19 I follow your blue bible. I follow your policy,
20 administrative rules. I follow the Arizona Revised
21 Statute. And it's like finding a needle in a hay stack
22 to get this all put together.

23 Now, we have all these new candidates and
24 people not even candidates that are coming forward
25 wanting to make an impact in changing all these rules

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1 turn and ask anybody out here a particular question. I
2 don't think we would come up with one answer to what the
3 law and the rules or administrative judgments are.

4 But, you know, when you start a race, like if
5 you're running a one-mile race uphill, everybody knows
6 what the rules are. We get one-half mile up that race
7 and somebody joins the race and they don't want to run
8 uphill because it's tougher. So, now they want to run
9 downhill. That's not fair. The rule says the race was
10 going to be one mile up the hill and not one-half mile
11 down the hill.

12 I respectfully request that you look at the
13 fairness of this issue. Changing the rules in the
14 middle of the playground is totally unfair. It is not
15 what the people of Arizona voted for when they wanted to
16 level the playing field. They wanted rules and
17 regulations.

18 And we, the candidates, Madame Chairman and
19 Commissioners, are the ones that have our neck on the
20 line. We're the ones that have to comply by this and go
21 through all the hoops, all the hoops. And then we look
22 and we see and the rules keep changing, changing,
23 changing.

24 You put out your blue Bible book with --
25 CHAIRPERSON BUSCHING: You time is --

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1 because the rules just don't seem to fit into their
2 agenda.

3 For those of us who started our election in
4 August and September, and we were following the rules in
5 place. We made our decision to run based on the rule
6 book; simple, plain, and fair. Our people that worked
7 with us, our treasurers, our campaign volunteers, all
8 knew the rules. And you shouldn't change all these
9 rules, I wouldn't think, when we're in the middle of a
10 campaign.

11 Now, two-and-a-half years since the last
12 statewide election and these issues could have been
13 determined, or solved, or resolved, or taken care of in
14 that time period. But now as we see this big horde of
15 candidates coming on and they don't want to play by the
16 rules, yet we were forced to play by the rules, and then
17 you can -- I hate to use the word arbitrarily -- decide
18 to change the rules to accommodate people because it
19 makes it easier but I had to play by the tough rules,
20 just is not fair.

21 What you're doing is hurting the qualified
22 candidates like myself. I'm being punished and they're
23 being rewarded. And I -- I would just like to tell you
24 in a little analogy the way I look at this. And I don't
25 mean to be emotional. It's so complicated that I could

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1 MS. BREWER: Excuse me?

2 CHAIRPERSON BUSCHING: Your time is up. Thank
3 you.

4 All right. Anyone else from the public wish to
5 speak?

6 COMMISSIONER KUNASEK: We need a motion to go
7 into executive session?

8 CHAIRPERSON BUSCHING: I do.

9 COMMISSIONER KUNASEK: So moved.

10 COMMISSIONER JOLLEY: I'll second that.

11 CHAIRPERSON BUSCHING: It's been moved by
12 Commissioner Kunasek and seconded by Commissioner Jolley
13 that we go into executive session.

14 All in favor say, "aye."

15 (Chorus of ayes.)

16 CHAIRPERSON BUSCHING: Opposed, nay?

17 Chair votes aye. Motion carries.

18 The public needs to leave the room.

19 COMMISSIONER KUNASEK: They can wait?
20 Shouldn't take too long, should it?

21 (Whereupon the public retires from the meeting
22 room.)

23
24 (Whereupon the Commission is in executive
25 session from 10:39 a.m. until 10:57 a.m.)

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1 to the Clean Elections fund?
2 MR. ROSEN: You know, I talked to the FAA about
3 it and there's an FAR that describes this one area of
4 flight, and it's a very vague FAR. And it's basically a
5 flight for hire 91 cents, you can have it. Anything
6 other than that, you're subject to regulation and that's
7 the way they look at it. They just -- it's pretty cut
8 and dried to them.
9 So, I understand -- I don't know where your
10 99-and-a-half cents came from, but the general aviation
11 fleet is 35 years old. You can buy a lot of airplanes
12 out there for less than a car. And even 91 cents is
13 really excessive, but this is what the federal
14 government will allow.
15 And if you can live with that number, then
16 you've solved the problem on all ends and you don't put
17 anybody out there at risk.
18 CHAIRPERSON BUSCHING: Thank you. Commissioner
19 Kunasek?
20 MR. ROSEN: Yes, sir?
21 COMMISSIONER KUNASEK: Mr. Rosen, what about
22 using the similar language to the automobile language,
23 which says between 10 cents and 40 cents, so between 91
24 and 99 and a half?
25 MR. ROSEN: As long as the expense report --

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1 (Whereupon all members of the public are
2 present and the Commission resumes in general session.)
3
4 CHAIRPERSON BUSCHING: While normally at this
5 time we would not open it up for public comment, because
6 I know some of the people did not have the Busching
7 version before and have had a fair amount of time now to
8 look at it, I will open it up for public comment and any
9 further comments by people, even if you have spoken
10 before up to a two-minute period per person.
11 So, before we turn to Commissioners discussing
12 this, is there any other public comment? Sir.
13 MR. ROSEN: Yes, ma'am.
14 CHAIRPERSON BUSCHING: Please come forward.
15 MR. ROSEN: Okay. I'd just like to reiterate
16 what I said earlier that the 99 -- the 91 cents a mile
17 would not open Pandora's box for reimbursement for a
18 private pilot. When you get anything over that, you're
19 going to create a problem where a private pilot then
20 will be subject to violating federal regulations, fines,
21 loss of license, and jail time. 91 cents, they're okay.
22 COMMISSIONER SCARAMAZZO: Would it -- would it
23 work in the pilot's mind to cover them that you would
24 basically charge the campaign 91 cents and then the
25 campaign would take the other eight cents and remit it

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1 COMMISSIONER KUNASEK: Shows 91.
2 MR. ROSEN: -- shows 91. But if it shows 92
3 and above --
4 COMMISSIONER KUNASEK: You're in trouble.
5 MR. ROSEN: -- then that pilot is in trouble.
6 CHAIRPERSON BUSCHING: Okay.
7 MR. ROSEN: Thank you very much for your time.
8 CHAIRPERSON BUSCHING: Thank you.
9 COMMISSIONER SCARAMAZZO: Thank you.
10 CHAIRPERSON BUSCHING: Any other members of the
11 public? Secretary of State Brewer?
12 MS. BREWER: Thank you, Madam Chair, members of
13 the Commission. I'm a candidate for re-election to
14 Secretary of State. I'm here today before you to remind
15 you that the campaigns have started, the rules are
16 printed, people have been following them. If you change
17 those rules in the middle of the process, it's totally
18 unfair and doesn't make for a level playing field.
19 Clean Elections was voted on and passed by the
20 people to make a level playing field. The level playing
21 field is when you start holding your workshops and
22 teaching people what the rules were and what the
23 campaign reporting was required of them. They bring
24 their campaign people. You get into the elections with
25 the idea these are the rules that everybody is going to

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1 be playing by.
 2 I respectfully request that you -- you think
 3 about that very, very seriously. You've had people that
 4 have been out there running their campaigns, following
 5 the rules, doing exactly what they are supposed to have
 6 been doing, and now we're sitting in here changing the
 7 rules.
 8 You're not even dealing with candidates. We
 9 have pilots here, God bless them, they want to
 10 volunteer. I appreciate that. I understand that. But,
 11 you know, what are you going to do the next time a
 12 printer comes in and wants to do printing and has
 13 regulations or somebody has to do something else? This
 14 is all special interest that is being put on the table
 15 for you all to address.
 16 We had elections two-and-a-half years ago with
 17 the rules that you are trying to accommodate people with
 18 today. If I recall correctly in that last statewide
 19 election, there was absolutely no controversy whatsoever
 20 about the travel either in an automobile or in an
 21 airplane. It's because candidates get on and don't want
 22 to comply by the rules. But they knew -- they knew what
 23 the rules were when they started down this track -- this
 24 track. And most of everyone complied by them.
 25 So, I don't know how or what attempt you're

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1 going to do to notify everybody that the rules have
 2 changed. And when complaints start coming in to you
 3 all, you're going to have to go from this period of time
 4 to this period of time and say, okay, these rules apply
 5 for this filing -- part of their filing, and now these
 6 rules apply for this and this time of filing, and it's
 7 going to be total chaos. And, obviously, not very
 8 popular with the candidates or with you, but more not
 9 popular with the public.
 10 Thank you, Madame Chairman.
 11 CHAIRPERSON BUSCHING: Yes.
 12 MS. SMITH FLOREZ: I'm Jan Smith Florez. I'm a
 13 candidate in the Clean Elections -- I call it scheme and
 14 that was taken not to be, but I just mean that in the
 15 broadest sense of the term. I have two questions --
 16 well, really one comment and one question.
 17 I do not know, your plan here seems to be that
 18 you get the money that can't go somewhere else, and I
 19 don't know if under the statute you have the authority
 20 to create your own funding source or do you have say
 21 where that funding money is going? I mean, why do you
 22 get to create a funding source? Well, if you can't pay
 23 them, you can pay us. That's a little curious to me as
 24 a person not just as a candidate. But maybe you have
 25 that authority and maybe you don't, but I just wonder if

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1 it's been looked into.
 2 The other thing is I don't think it's clear in
 3 what this proposal is. Say I have a 60-mile trip from
 4 somewhere from my home -- say to Tucson from my Nogales
 5 home, do I charge the first 40 miles or only the 20
 6 miles? I mean, which is it? I don't know what the rule
 7 is here.
 8 CHAIRPERSON BUSCHING: Okay. Appreciate your
 9 comments. Thank you.
 10 Anyone else? If not, we'll turn to the
 11 Commissioners and Executive Director and see where we're
 12 at for discussion and/or a motion.
 13 Mr. Lang?
 14 MR. LANG: While folks are gathering their
 15 thoughts, Madame Chair, I thought I'd suggest a small
 16 change to D in your proposal. D is in my mind
 17 effectively a reiteration of my clause regarding if you
 18 think you can't take this money then pay what you can
 19 and reimburse the difference to the Commission. And
 20 that's based in part on legal advice that we received
 21 from Mr. Irwin a few weeks back that said that would not
 22 violate FAA regulations.
 23 But in D it says, "If an owner of
 24 transportation or public accommodation is not
 25 reimbursed" I suggest that after that you add the terms,

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1 "in whole or in part." So that it's clear it covers
 2 those situations where folks are being paid, say in Mr.
 3 Rosen's case, 99.5 cents a mile, they're not being paid
 4 that whole amount, he's only going to accept 91 cents
 5 under his view of the regulations. That difference
 6 would then be sent to the Clean Elections fund.
 7 And I would also note to the Commission that's
 8 a very tiny amount of money. Our goal isn't to raise
 9 money. Our goal is to simply accommodate folks with
 10 concerns about their FAA license.
 11 CHAIRPERSON BUSCHING: Okay. Thank you. I
 12 would like to -- since I'm the author of it I'll -- I'll
 13 chop this up a little bit.
 14 I would like to suggest that we delete C(1)
 15 from this and renumber C. And then similarly over in
 16 E(1), delete the clause "of more than 80 miles." I'm
 17 persuaded by the arguments that it's an expenditure,
 18 it's a cost in the campaign and that we shouldn't be
 19 getting into making arbitrary delineations of mileage.
 20 So, if the will of the Commission is to go
 21 forward with this proposal, I would recommend that we
 22 make those two changes as well.
 23 Commissioner Jolley?
 24 COMMISSIONER JOLLEY: Yes. Were we going to
 25 align ourselves with the same rule that we have on the

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1 last line, these three years; "The information shall be
 2 kept from three years from the date of the election."
 3 CHAIRPERSON BUSCHING: That's an issue as well.
 4 We're looking in E(1), "The information shall be kept
 5 for" -- right now it says two years and Commissioner
 6 Jolley is suggesting that we should say three years.
 7 Should we just say three years and delete the
 8 rest of that clause then to keep it in conformance with
 9 the regulations?
 10 COMMISSIONER SCARAMAZZO: Does it even need to
 11 be in there?
 12 CHAIRPERSON BUSCHING: Delete the whole
 13 sentence?
 14 COMMISSIONER SCARAMAZZO: Delete the whole
 15 sentence I think would make it cleaner.
 16 CHAIRPERSON BUSCHING: Okay. Other comments?
 17 COMMISSIONER KUNASEK: Yes.
 18 CHAIRPERSON BUSCHING: Commissioner Kunasek?
 19 COMMISSIONER KUNASEK: Back to your suggestion.
 20 By deleting C(1) --
 21 CHAIRPERSON BUSCHING: Uh-huh.
 22 COMMISSIONER KUNASEK: -- and deleting, "of
 23 more than 80 miles," it would be my understanding then
 24 that any candidate that makes a trip across the street
 25 is going to have to keep a log of that trip?

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1 CHAIRPERSON BUSCHING: If it's campaign
 2 related.
 3 COMMISSIONER KUNASEK: If it's campaign
 4 related, the candidate must report the expenditure, but
 5 now he has to literally in reporting the expenditure
 6 keep a log of even the shortest trips around the block.
 7 Is that what we intend to do?
 8 CHAIRPERSON BUSCHING: That's open for
 9 discussion by the Commissioners.
 10 COMMISSIONER SCARAMAZZO: Walks across the
 11 street, I don't think he can --
 12 COMMISSIONER KUNASEK: Shoe leather.
 13 COMMISSIONER SCARAMAZZO: Yeah, shoe leather.
 14 That's about it. Not going to drive, you know. I think
 15 that's going to be a moot point. But I just think in
 16 keeping with the basis of fairness and level playing
 17 field, if he's going a mile then it's the same as going
 18 150 miles in my mind.
 19 COMMISSIONER KUNASEK: So he must keep a log of
 20 that mile?
 21 COMMISSIONER SCARAMAZZO: Correct.
 22 COMMISSIONER KUNASEK: Okay. Thank you.
 23 CHAIRPERSON BUSCHING: Okay. Commissioner
 24 Jolley?
 25 COMMISSIONER JOLLEY: Yes. Another question.

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1 For letter D, were we going to asterisk the rule there,
 2 or the implication, or reminder to the candidates?
 3 CHAIRPERSON BUSCHING: Yes. We had talked
 4 about the asterisks referencing ARS 16-941(A)(1) and
 5 16-945, which would be the same asterisk over in C(2).
 6 MR. LANG: Madame Chair, C(2) would now just
 7 become C for the record.
 8 COMMISSIONER KUNASEK: Correct.
 9 CHAIRPERSON BUSCHING: Right. Right. And then
 10 the little tiny a, b, c, and d would be become one --
 11 MR. LANG: Numbers.
 12 COMMISSIONER KUNASEK: -- two, three.
 13 CHAIRPERSON BUSCHING: Yeah. Any other
 14 discussion on this proposal?
 15 If not, the Chair will entertain a
 16 motion.
 17 COMMISSIONER KUNASEK: I would move your
 18 suggestion --
 19 CHAIRPERSON BUSCHING: Okay.
 20 COMMISSIONER KUNASEK: -- and also the other
 21 comments that have been made with regard to three years,
 22 the "more than 80 miles" be stricken, and the citation
 23 that Commissioner Jolley was interested in in paragraph
 24 E. I didn't note that citation --
 25 CHAIRPERSON BUSCHING: Okay.

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1 COMMISSIONER KUNASEK: -- whatever that was.
 2 CHAIRPERSON BUSCHING: Is there a second?
 3 COMMISSIONER JOLLEY: I will second that.
 4 CHAIRPERSON BUSCHING: Commissioner Kunasek
 5 moves and Commissioner Jolley seconds the comments from
 6 the Busching proposal dated March 29th, 2006 with the
 7 following amendments -- and if this is incorrect in my
 8 statement, please help me out: In C(1), what was C(1),
 9 that would be deleted entirely; reporting cost would
 10 then be re -- the sub numbers would be redone as one,
 11 two, three, and four rather than a, b, c, and d; in D we
 12 would add "in whole or in part" after "not reimbursed"
 13 in the second line; also in D we would asterisk the
 14 terms "in-kind contribution"; in E we would delete the
 15 clause "of more than 80 miles"; and also in E(1) we
 16 would delete the final sentence, "The information shall
 17 be kept for two years" et cetera.
 18 And I think I missed the other asterisks that
 19 would be as part of the C, reporting cost reference. So
 20 that would be the other change.
 21 There had been some discussion about making the
 22 mileage reimbursement rate for airplanes a range like is
 23 set forth for automobiles. Is that part of motion or
 24 not, Commissioner Kunasek?
 25 COMMISSIONER KUNASEK: I didn't make that yet,

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1 but I'm glad you reminded me of it. Because I think by
 2 making it a range, we do protect those private pilots
 3 that might be in jeopardy from the FAA if -- if they
 4 were not in there.
 5 CHAIRPERSON BUSCHING: Okay.
 6 COMMISSIONER KUNASEK: So I would just add the
 7 language as we have in the automobile language which,
 8 "where airplanes shall be a maximum of 99.5 cents a
 9 minimum of 91 cents."
 10 CHAIRPERSON BUSCHING: And Commissioner Jolley,
 11 do you approve that friendly amendment?
 12 Or is that a friendly amendment?
 13 COMMISSIONER KUNASEK: Yeah, I hope so.
 14 COMMISSIONER JOLLEY: Yes.
 15 CHAIRPERSON BUSCHING: Okay. Any further
 16 discussion on the motion?
 17 Mr. Lang?
 18 MR. LANG: Thank you, Madam Chair. I noted
 19 that when you took this up you said you were considering
 20 both agenda Items 11 and 13.
 21 CHAIRPERSON BUSCHING: Uh-huh.
 22 MR. LANG: So given that 13 is now been amended
 23 completely, I would ask the Commission to consider,
 24 whether you want to do it now or separately, you know,
 25 amending 13 to just say "reserve" because now it's been

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1 incorporated entirely into your new substantive policy
 2 statement 11.
 3 CHAIRPERSON BUSCHING: Commissioner Kunasek, do
 4 you approve that?
 5 COMMISSIONER KUNASEK: Yes.
 6 CHAIRPERSON BUSCHING: Commissioner Jolley?
 7 COMMISSIONER JOLLEY: Yes.
 8 CHAIRPERSON BUSCHING: Okay. All right.
 9 Further discussion?
 10 COMMISSIONER KUNASEK: I would now move the
 11 Busching substantive policy --
 12 CHAIRPERSON BUSCHING: We have that motion on
 13 the floor.
 14 COMMISSIONER KUNASEK: As amended?
 15 COMMISSIONER SCARAMAZZO: As amended.
 16 CHAIRPERSON BUSCHING: Yeah.
 17 COMMISSIONER KUNASEK: Okay. Missed that.
 18 CHAIRPERSON BUSCHING: So, any further
 19 discussion?
 20 If not, the Chair will call for the question,
 21 all in favor of the Busching -- comments from Busching
 22 dated March 29th, 2006 as amended. And I will try it
 23 once again, just so the record is clear, to make sure I
 24 get everything: C(1) the paragraph is deleted; C(2) the
 25 reference to "in-kind contributions" shall have an

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1 asterisk referencing the two statutes; the little a, b,
 2 c, and d will be changed to one, two, three, and four;
 3 the mileage reimbursement rate for airplanes shall have
 4 the -- same type of language that has the mileage
 5 reimbursement rate for automobiles and will range from
 6 91 cents to 99-and-a-half cents per nautical mile;
 7 paragraph D will have the words "in whole or in part"
 8 inserted after "not reimbursed"; it will also have the
 9 in-kind contribution asterisk; paragraph E(1) will have
 10 the deletion of the words "of more than 80 miles"; it
 11 will have the deletion of the final sentence; and there
 12 in substantive policy 13, it will have the words
 13 "reserved" beside it.
 14 Did I miss anything?
 15 If not, all in favor say, "aye."
 16 (Chorus of ayes.)
 17 CHAIRPERSON BUSCHING: Opposed, nay?
 18 Chair votes aye. Motion carries.
 19 Thank you everyone that came and has spoken on
 20 this. Your comments have been very much appreciated and
 21 we really appreciate the time that you've taken to be
 22 involved in this process and I know it's been difficult
 23 for everyone.
 24 Moving to agenda Item VI(D) No. 16, timely
 25 reimbursement of campaign expenditures by candidates,

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1 campaign staff, and volunteers.
 2 Mr. Lang?
 3 MR. LANG: Thank you, Madame Chair. Having a
 4 little trouble finding my spot.
 5 Madame Chair, this has come up because of the
 6 way our rules work with in-kind contributions,
 7 basically. And it came up -- actually it came to my
 8 attention in the Ablesser matter that we did that the
 9 Commission undertook a few month ago.
 10 When you have campaigns, you have staff out
 11 there who are making expenditures on behalf of the
 12 campaigns. It becomes an in-kind contribution until
 13 it's reimbursed, so you would have the potential for
 14 violations. And what this proposal would do -- the best
 15 practice, of course, is not to allow that to happen and
 16 I know there are some campaigns that are operating that
 17 way. Some statewide campaigns have very strict control
 18 on campaign expenditures so that this issue doesn't
 19 arise at all.
 20 One option for the Commission is, of course,
 21 not to undertake this substantive policy statement for
 22 just that reason. But as we've seen though, there are
 23 campaigns that have raised concerns about this. They
 24 have a campaign staff out in Nogales that needs to buy a
 25 notebook or something. So what this would do to

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1 accommodate that on a limited basis and it to be --
 2 allow this to occur as long as it's reimbursed within
 3 the timeline we've set. That way campaigns can operate
 4 and have have some flexibility. And so that's -- that's
 5 the goal here with this proposal.

6 CHAIRPERSON BUSCHING: Mr. Lang, is this
 7 entirely new or is this a revision of something that
 8 currently exists?

9 MR. LANG: As a substantive policy statement?
 10 It's entirely new.

11 CHAIRPERSON BUSCHING: Okay. Other questions
 12 of Mr. Lang?

13 COMMISSIONER JOLLEY: I have a question.

14 CHAIRPERSON BUSCHING: Commissioner Jolley?

15 COMMISSIONER JOLLEY: Tell me about how a
 16 campaign uses credit cards, or they are not allowed to
 17 use credit cards at all or personal credit cards, how
 18 does that work?

19 MR. LANG: Well, let me -- what the campaign is
 20 supposed to do is -- the strong preference is for them
 21 to pay directly to the expenditures -- right. Yeah.
 22 And counsel has pointed out to me 948(C), which of
 23 course requires that the campaign pay those -- make
 24 those payments directly to the person receiving the
 25 goods or services.

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1 The problem with a credit card is that's going
 2 through the bank. Although it doesn't have the same
 3 concerns we had in the subcontractor situation, the rule
 4 is the same.

5 So that's why our policy statement say that,
 6 you know, campaign checks, debit cards, or cash are the
 7 preferred way to do business because there's no danger
 8 of violating 948(C).

9 And if you decide to undertake it, the idea is
 10 here that we're going to make a tiny exception because
 11 we understand the reality of the campaign. This
 12 substantive policy statement comes, obviously, from
 13 input we received from campaigns.

14 Even though I brought it before you, I want you
 15 to understand also that at least one major campaign has
 16 undertaken a policy that just prohibits this. They can
 17 only use campaign debit cards to make purchases because
 18 they don't want to violate any of our rules.

19 CHAIRPERSON BUSCHING: Other questions for Mr.
 20 Lang?

21 If not, I'll ask, is there anyone from the
 22 public that wishes to speak to this matter?

23 Okay. Guess not. Then we'll turn to
 24 discussion among the Commissioners.

25 Any discussion among the Commissioners?

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1 COMMISSIONER KUNASEK: I haven't gone over the
 2 statute. The paragraph five -- 16, subparagraph five,
 3 the, "No expenditure shall be made without the advanced
 4 authorization of the treasurer or it's designated
 5 agent." If the, say, the campaign worker, staff, is in
 6 -- away from the campaign headquarters and not able to
 7 contact the treasurer, how are they going to work that
 8 out?

9 MR. LANG: Madame Chair, Commissioner Kunasek,
 10 two things there. One is note that this is a
 11 restatement of the rule that already exists and it's put
 12 in there simply to remind folks reading the substantive
 13 policy statement that there is a rule there. So, it's
 14 really not necessary. We could remove it.

15 Second you can get -- campaign give
 16 authorizations to campaign workers all the time to do
 17 that. The purpose of this is to -- so that campaigns
 18 can't claim that this was an unauthorized expenditure in
 19 order to dodge something, when in fact it was an
 20 authorized expenditure.

21 COMMISSIONER KUNASEK: So the authorization
 22 doesn't have to be specific to three-by-five cards or
 23 something like that?

24 MR. LANG: No, they can give a generalized
 25 authorization.

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1 COMMISSIONER KUNASEK: Okay. Thank you.

2 CHAIRPERSON BUSCHING: Other questions or
 3 comments?

4 I have spent considerable time on this rule or
 5 this substantive policy statement, and I -- after trying
 6 to see if I wanted to rewrite it in a different fashion
 7 or anything, I decided that there was so much in here
 8 that was already in the statutes and rules that I am
 9 inclined to not approve going forward with anything on
 10 this. And also keeping in mind comments that we've had
 11 from the public about trying to minimize the changes
 12 during the election cycle.

13 So my personal opinion is that contrary to the
 14 Executive Director, I would not approve it.

15 MR. LANG: That's fine.

16 COMMISSIONER KUNASEK: Well, I would share your
 17 concern based on my previous comments of waiting until
 18 the next election cycle to make -- I don't know if these
 19 are considered changes or it's just a new statement, but
 20 I would -- I would agree with you that we not do it at
 21 this time or if we do it, make it implemented at the
 22 next election cycle.

23 CHAIRPERSON BUSCHING: Okay. Any other
 24 comments?

25 If not, the Chair will entertain a

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1 motion.
2 COMMISSIONER KUNASEK: I would --
3 COMMISSIONER SCARAMAZZO: We don't want a
4 negative motion, so if there's just no motion it just
5 dies.
6 COMMISSIONER KUNASEK: That's fine.
7 CHAIRPERSON BUSCHING: Okay. Sounds fine.
8 MR. LANG: Thank you for that.
9 COMMISSIONER KUNASEK: You don't want a
10 no-confidence vote?
11 CHAIRPERSON BUSCHING: Take note it just died
12 for this -- for this meeting.
13 All right. Moving on to Item VII, discussion
14 and possible action on future meeting dates.
15 Mr. Lang?
16 MR. LANG: Madame Chair, Commissioners. You
17 have before you a nice, colorful agenda item -- thank
18 you for the little graph there, Paula -- of proposed
19 meeting dates. And I realize that there are quite a few
20 there.
21 What I would suggest you keep in mind is,
22 number one, matching funds are going to take a great
23 deal of your time as we get close to the elections, both
24 the primary and the general. And the second is
25 commissioners are generally hard folks to schedule. And

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1 so if we set these dates --
2 COMMISSIONER SCARAMAZZO: What do you mean by
3 that?
4 COMMISSIONER KUNASEK: Is that a slam?
5 MR. LANG: It's mostly a compliment.
6 COMMISSIONER SCARAMAZZO: Is that a slam?
7 MR. LANG: You're very busy folks in your
8 communities.
9 MR. SCARAMAZZO: We ignore one of your
10 recommendations and you came right after us with this.
11 MR. LANG: In fact, I'd like to add a few
12 dates.
13 And so the goal here is to basically reserve
14 these dates so you don't book them in your own personal
15 calendars. And then down the road if we find we don't
16 need these dates, you can always cancel a meeting. But
17 my guess is you'll find you need these dates because of
18 matching funds. But a few will go away.
19 So that's the proposal here that we have these
20 so that we have some dates we know we can get together.
21 CHAIRPERSON BUSCHING: Mr. Lang, I had a
22 question about the November 1st, 6th and 7th. The 6th
23 is, as I looked at the calendar, is the day before
24 election day and the 7th is election day. And what was
25 the intent in that regard?

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1 MR. LANG: Matching funds. We issue matching
2 funds right up to the end because there's a lot of game
3 playing right before election day. So, to best serve
4 our candidates we have to be able to issue matching
5 funds on election day.
6 CHAIRPERSON BUSCHING: On election day itself?
7 MR. LANG: The marginal utility there is
8 reduced, but there may be -- may be other matters as
9 well.
10 CHAIRPERSON BUSCHING: Okay.
11 COMMISSIONER KUNASEK: My question is --
12 CHAIRPERSON BUSCHING: So you come down and
13 camp that day.
14 COMMISSIONER SCARAMAZZO: Just set up
15 residency.
16 COMMISSIONER KUNASEK: My question is on
17 December what do the airplanes mean? Are we going on
18 sabbatical then, or are we taking a trip for the good
19 work, or what?
20 MR. LANG: The 20th is just the date that
21 normally comes up.
22 COMMISSIONER KUNASEK: The airplanes in
23 December.
24 CHAIRPERSON BUSCHING: Is it COGEL?
25 COMMISSIONER KUNASEK: Second, third, fourth,

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1 fifth.
2 MR. LANG: I didn't know.
3 MS. ORTIZ: It's the COGEL trip in New Orleans.
4 CHAIRPERSON BUSCHING: COGEL is the Council on
5 Governmental Ethics Laws.
6 COMMISSIONER KUNASEK: Okay.
7 CHAIRPERSON BUSCHING: It's a conference that a
8 portion of the staff and all the Commissioners typically
9 go to. So that's why that's listed there as --
10 COMMISSIONER KUNASEK: I see. Okay.
11 Well, I agree with your comments. It is
12 difficult. We should note these meeting dates and with
13 the ability to participate by telephone, that should put
14 us all on notice.
15 CHAIRPERSON BUSCHING: So is that a motion that
16 we approve them?
17 COMMISSIONER KUNASEK: That's discussion.
18 CHAIRPERSON BUSCHING: Okay.
19 COMMISSIONER SCARAMAZZO: I'll move that we
20 accept this.
21 COMMISSIONER JOLLEY: I'll second.
22 CHAIRPERSON BUSCHING: It's been moved by
23 Commissioner Scaramazzo and seconded by Commissioner
24 Jolley that we approve the regular and tentative special
25 meeting dates for the months of July through December as

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1 proposed by staff.
 2 All in favor say "aye."
 3 (Chorus of ayes.)
 4 CHAIRPERSON BUSCHING: Opposed, nay?
 5 Chair votes aye. Motion carries.
 6 Agenda Item VIII, discussion and possible
 7 action on process for Executive Director review. This
 8 matter was put on the agenda because it's our
 9 recollection that when we hired the Executive Director,
 10 we said that along about six months we would do a
 11 review.
 12 You were presented with a performance
 13 evaluation that had been used with the prior Executive
 14 Director with merely the name of the Executive Director
 15 changed and dates changed, and then a second review form
 16 that is a more open-ended form for comments and
 17 everything.
 18 And I thought today that we would discuss the
 19 procedures of how we go about doing the evaluation so
 20 that we could at one of our soon future -- or one of our
 21 future meetings actually perform the evaluation based
 22 upon a process that we would set up today.
 23 MS. VARELA: Commissioner Busching, if I may?
 24 Commissioners, I think Commissioner Busching has already
 25 stated this, but I just to want to make it clear what

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1 she wants to talk about today is the process. So there
 2 shouldn't be any discussion to anything in particular to
 3 Todd, because there are special notice requirements that
 4 have to be done when it's an actual evaluation.
 5 So I just want to make it very clear, you're
 6 talking now about how you are going to do the evaluation
 7 and the evaluation will happen at a later date and we
 8 will make those notice and meeting requirements.
 9 MR. LANG: Even praise?
 10 COMMISSIONER SCARAMAZZO: Limited.
 11 CHAIRPERSON BUSCHING: Commissioner Scaramazzo?
 12 COMMISSIONER SCARAMAZZO: Pardon?
 13 CHAIRPERSON BUSCHING: Would you like to offer
 14 some thoughts?
 15 COMMISSIONER SCARAMAZZO: No, I'm just having a
 16 dialogue here.
 17 CHAIRPERSON BUSCHING: We'd like your thoughts.
 18 COMMISSIONER SCARAMAZZO: I got to tell you,
 19 I'm looking for --
 20 COMMISSIONER KUNASEK: That's what I'm looking
 21 for.
 22 COMMISSIONER SCARAMAZZO: -- a copy of that. I
 23 remember seeing one come across the computer. There's
 24 been so many revisions to that, I don't think have it.
 25 MR. LANG: I'm sorry, I don't think it made it

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1 in the packet.
 2 COMMISSIONER SCARAMAZZO: Okay.
 3 CHAIRPERSON BUSCHING: Is it your desire of the
 4 Commissioners to table this to the next meeting?
 5 COMMISSIONER SCARAMAZZO: So moved.
 6 COMMISSIONER KUNASEK: Second.
 7 CHAIRPERSON BUSCHING: Mr. Lang, do you have
 8 any problem with that?
 9 MR. LANG: No.
 10 CHAIRPERSON BUSCHING: Okay. It's been --
 11 motion has been made to table agenda Item VIII to the
 12 next meeting.
 13 All in favor say "aye."
 14 (Chorus of ayes.)
 15 CHAIRPERSON BUSCHING: Opposed, nay?
 16 Chair votes aye. Motion carries.
 17 Item IX, call for public comment. This is the
 18 time for consideration and comment and complaints from
 19 the public. Action taken as a result of public comment
 20 will be limited to directing staff to study the matter,
 21 or rescheduling the matter for further consideration or
 22 decision at a later date, or responding to criticism.
 23 Is there anyone from the public that wishes to
 24 speak? Please.
 25 MS. BREWER: Thank you, Madam Chair. Jan

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1 Brewer, candidate for re-election to Secretary of State.
 2 In reference to your policy changes, or rule
 3 changes, or administrative policy changes, I would like
 4 to at least be advised of when they became effective and
 5 the date, because we have candidates out there traveling
 6 as we sit here speaking. And at 11:10 on today's date
 7 you made the motion. And so are they in compliance or
 8 out of compliance? And when I leave should I take my
 9 odometer meter? And then should I be able to be in the
 10 position to share with, at least the people that I know,
 11 that I've attended here, what we have accomplished?
 12 And if I could get a copy of that as soon as
 13 possible because I, too, will be watching to see that
 14 everybody complies with the rules and regulations to the
 15 best of their ability.
 16 So, I don't know if you're at liberty today to
 17 tell me when it is effective.
 18 CHAIRPERSON BUSCHING: Well, in accordance with
 19 public comment, we're limited to directing staff to
 20 study the matter or rescheduling the matter for further
 21 consideration. So, I'm sure Mr. Lang will study the
 22 matter and report as appropriate.
 23 MR. LANG: I will.
 24 MS. BREWER: Thank you, Madame Chairman. I
 25 just wanted the record to reflect it was adopted on

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1 today's date at 11:10. Thank you.
 2 COMMISSIONER SCARAMAZZO: Thank you.
 3 CHAIRPERSON BUSCHING: Any other members of the
 4 public wish to give comment?
 5 Sir. Your name, please.
 6 MR. BREWER: Michael Brewer. I'm just a little
 7 concerned about how policy, new policy 11 got adopted
 8 today. My understanding was that the new 11 was
 9 combining 11, 12, and 13. As we recognize, we reserved
 10 13. 12 was supposed to be incorporated into 11, which
 11 not having the time to actually verify if it was a
 12 hundred-percent incorporated or not, at least in your
 13 policy statement you still have a new 11 and you still
 14 have a 12.
 15 MR. LANG: That's right.
 16 MS. VARELA: That's right.
 17 MR. BREWER: I personally think that creates
 18 confusion for volunteers and candidates to read. If
 19 they just read 12 and also read 11, that they could
 20 argue that there's some inconsistency there, because 12
 21 certainly doesn't contain everything that's in 11.
 22 I just wanted to raise that.
 23 CHAIRPERSON BUSCHING: Thank you.
 24 COMMISSIONER SCARAMAZZO: Thank you.
 25 CHAIRPERSON BUSCHING: Mr. Lang --

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C E R T I F I C A T E

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 2
 3 I, Angela Furniss Miller, Certified Reporter,
 4 do hereby certify that the foregoing pages numbered 1
 5 through 83, inclusive, constitute a full and accurate
 6 printed record of my stenographic notes taken at said
 7 time and place, all done to the best of my skill and
 8 ability.

9 DATED, at Phoenix, this 4th day of April,
 10 2006.

11
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 13
 14 Angela Furniss Miller, RPR
 15 Certified Reporter (AZ50127)
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1 MR. LANG: I will --
 2 CHAIRPERSON BUSCHING: -- study that matter --
 3 MR. LANG: -- study that.
 4 CHAIRPERSON BUSCHING: -- and bring it before
 5 us as appropriate.
 6 MR. LANG: Uh-huh.
 7 CHAIRPERSON BUSCHING: Okay. Any other members
 8 of the public wish to speak?
 9 If not, move to agenda Item XI. Is there a
 10 motion for adjournment?
 11 COMMISSIONER JOLLEY: Motion.
 12 CHAIRPERSON BUSCHING: Second?
 13 COMMISSIONER KUNASEK: Second.
 14 CHAIRPERSON BUSCHING: It's been moved by
 15 Commissioner Jolley and seconded by Commissioner Kunasek
 16 that we adjourn.
 17 All in favor, say "aye."
 18 (Chorus of ayes.)
 19 CHAIRPERSON BUSCHING: Opposed, nay?
 20 Chair votes aye. Motion carries.
 21 This meeting is adjourned.
 22 COMMISSIONER KUNASEK: Thank you.
 23 CHAIRPERSON BUSCHING: Thank you.
 24 (Whereupon the proceeding concludes at 11:36
 25 a.m.)